

FISH & WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: November 12, 2015

Agenda Item: Biennial Rule for Possible Closure near Supply Ditch on the Bitterroot River

Division: Fisheries **Action Needed:** Proposed

Time Needed on Agenda for this Presentation: 15 Minutes

Background

In 2011, the Bitterroot River shifted flow into a new stream channel and over the Supply Ditch Diversion. The diversion now has a deceptive hydraulic that is dangerous to floaters. After 2011, accidents were reported, and FWP placed signs at access sites and on the river to warn of the danger. Despite educational efforts, several more accidents and one fatality occurred in 2013. Additional notice followed using signs and newspaper articles. There were no more accidents in 2013, but in spring 2014, at least two more accidents occurred and by April, FWP initiated an emergency rule closure for user safety on a five-mile section of the Bitterroot River, from Woodside Crossing FAS downstream to Tucker Crossing (West) FAS. In 2015, FWP asked for the authority to close the river if certain criteria were reached. The river was never closed in 2015 because the West Channel of the Bitterroot was floatable. FWP is taking steps to avoid closure but the potential need remains in 2016 and 2017. If the dam is successfully repaired, the rule would be retracted as soon as it is safe to do so.

Public Involvement Process & Results

Public comment was collected from February 13 to March 9 of 2015. A public hearing was held in Hamilton on March 4th. We received a total of 79 total comments with 73 of them being relevant to this issue. Of those 73 comments, 27 percent supported the FWP having the ability to close the river if necessary. These proponents included Bitterroot Trout Unlimited, Fishing Outfitters Association of Montana (FOAM), Ravalli County Search and Rescue, and the Supply Ditch Irrigation Association. The comments supporting this rule included concerns for public safety, rescuer safety (see attached for full analysis). Of the comments we received, 73 percent did not support the rule. The majority of these comments expressed concern about setting a precedent of closing rivers.

Alternatives and Analysis

- Alternative 1: Adopt the rule to allow closure to floating and boating if needed. Closure may be needed if: (1) other channels are not available to get around the dam; (2) high water washes away signs and/or alter conditions at the dam; and (3) repairs can be made to the structure.
- Alternative 2: Adopt an annual rule if the public comment is strongly against a biennial rule.

Agency Recommendation & Rationale

FWP recommends adoption of the rule because FWP can't be certain outreach alone will adequately protect public safety: High flows may change river conditions and destroy signs; posted information may not accurately reflect rapidly changing conditions at the dam. The ability to close all or a portion of the river from Woodside to Tucker FAS would greatly enhance public awareness of this dangerous and potentially rapidly changing hazard. There is also a process moving forward to repair the structure in 2016/2107 and a closure would be necessary to complete that work. Any floating closure would be intended to best meet public safety objectives, while minimizing the length of time and the length of river affected. If the dam is successfully repaired, the rule would be retracted as soon as it is safe to do so.

Proposed Motion

I move that the Commission adopt the biennial rule to allow FWP to close the Bitterroot River to floating and boating for user safety and/or possible repair from Woodside to Tucker FAS. This rule needs to be in effect during spring runoff until flows fall below 4,000 cubic feet per second at the USGS Missoula Gauge, or until July 10, 2015, whichever occurs first. Another reason for closure would be if the dam is actively being modified or repaired and then it would re-open as soon as construction is complete.